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9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**  
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12 In the Matter of the Accusation Against:

Case No. 2009-123

13 **HUAN DINH TRAN**  
14 8951 Hewitt Place, #2  
Garden Grove, California 92844

**A C C U S A T I O N**

15 Registered Nurse License No. RN 661569

16 Respondent.  
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18 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:  
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20 **PARTIES**

21 1. Complainant brings this Accusation solely in her official capacity as the  
22 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer  
23 Affairs.

24 **License History**

25 2. On or about July 25, 2005, the Board issued Registered Nurse License Number  
26 RN 661569 ("license") to Huan Dinh Tran ("Respondent"). The license will expire on July 31,  
27 2009, unless renewed.

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### **STATUTORY PROVISIONS**

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3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

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4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

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5. Code section 118, subdivision (b), provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

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6. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

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(a) Unprofessional conduct, . . .

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

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7. Section 490 of the Code states:

(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

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(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(d) The Legislature hereby finds and declares that the application of this section has been made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal. App.4th 554, and that the holding in that case has placed a significant number of statutes and regulations in question, resulting in potential harm to the consumers of California from licensees who have been convicted of crimes. Therefore, the Legislature finds and declares that this section establishes an independent basis for a board to impose discipline upon a licensee, and that the amendments to this section made by Senate Bill 797 of the 2007 - 08 Regular Session do not constitute a change to, but rather are declaratory of, existing law.

8. California Code of Regulations, title 16, section 1444 states, in pertinent part:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare.

9. California Code of Regulations, title 16, section 1445 states, in pertinent part:

(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and her eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

1 (4) Whether the licensee has complied with any terms of  
2 parole, probation, restitution or any other sanctions lawfully  
imposed against the licensee.

3 (5) If applicable, evidence of expungement proceedings pursuant to  
4 Section 1203.4 of the Penal Code.

5 (6) Evidence, if any, of rehabilitation submitted by the licensee.

#### 6 **COST RECOVERY**

7 10. Code section 12513 provides, in pertinent part, that the Board may request the  
8 administrative law judge to direct a licensee found to have committed a violation or  
9 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
10 and enforcement of the case.

#### 11 **FIRST CAUSE FOR DISCIPLINE**

##### 12 **(June 14, 2006 Criminal Conviction-Trespass and Business Disruption)**

13 11. Respondent is subject to disciplinary action under Code section 2761, subdivision  
14 (f), in that Respondent was convicted of a crime substantially related to the functions, duties, and  
15 qualifications of a registered nurse, as follows:

16 a. On or about June 14, 2006, in the Superior Court of California, County of  
17 Orange, in the case entitled, *People of the State of California v. Huan Dinh Tran* (Super Ct.  
18 Orange County, 2006, Case No. 96WM04622MA), Respondent was convicted on his plea of  
19 guilty to a lesser crime of violating Penal Code section 602, subdivision (k) (Trespassed and  
20 Disrupted a Business), a misdemeanor. The circumstances of the crime are that on or about  
21 March 9, 2006, Respondent did unlawfully engage in a lewd and dissolute conduct in a public  
22 place and in a place open to the public and exposed to public view.

#### 23 **SECOND CAUSE FOR DISCIPLINE**

##### 24 **(April 16, 2008 Criminal Conviction-Disturbing the Peace)**

25 12. Respondent is subject to disciplinary action under Code section 2761, subdivision  
26 (f), in that Respondent was convicted of a crime substantially related to the functions, duties, and  
27 qualifications of a registered nurse, as follows:

28 a. On or about April 16, 2008, in the Superior Court of California, County of


1 Orange, in the case entitled, *People of the State of California v. Huan Dinh Tran* (Super Ct.  
2 Orange County, 2008, Case No. 08WM00576), Respondent was convicted on his plea of guilty  
3 to a lesser crime of violating Penal Code section 415, subdivision (2) (Disturbing the Peace), a  
4 misdemeanor. The circumstances of the crime are that on or about October 26, 2007,  
5 Respondent did unlawfully engage in a lewd and dissolute conduct in a public place and in a  
6 place open to the public and exposed to public view.

7 **PRAYER**

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
9 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 10 1. Revoking or suspending Registered Nurse License Number RN 661569  
11 issued to Huan Dinh Tran;  
12 2. Ordering Huan Dinh Tran to pay the Board the reasonable costs of the  
13 investigation and enforcement of this case, pursuant to Code section 125.3; and,  
14 3. Taking such other and further action as deemed necessary and proper.  
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16 DATED: 11/24/08  
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19 RUTH ANN TERRY, M.P.H., R.N.  
20 Executive Officer  
21 Board of Registered Nursing  
22 Department of Consumer Affairs  
23 State of California  
24 Complainant  
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